

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CHRISTOPHER LEWIS HARPER,)	
)	
Movant,)	
)	
v.)	No. 4:05CV00474 ERW
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter is before the Court upon the motion of Christopher Lewis Harper to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255.

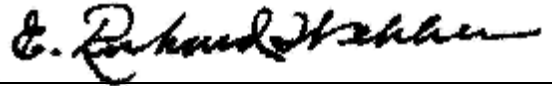
On April 1, 2004, movant pleaded guilty to two counts of being a felon in possession of firearms, in violation of 18 U.S.C. § 922(g). On June 24, 2004, he was sentenced to a term of eighty-seven months imprisonment and a two-year term of supervised release. On July 2, 2004, movant filed a notice of appeal. A review of the Court's records indicates that movant's direct criminal appeal currently is pending in the Eighth Circuit Court of Appeals. See United States v. Harper, No. 04-2676 (8th Cir.). As such, the instant motion is premature and will be dismissed, without prejudice. See Masters v. Eide, 353 F.2d 517 (8th Cir. 1965)(ordinarily, defendant may not seek habeas corpus relief while appeal from conviction is pending).

In accordance with the foregoing,

IT IS HEREBY ORDERED that movant's motion pursuant to 28 U.S.C. § 2255 is **DENIED**, without prejudice.

An appropriate order will accompany this memorandum and order.

So Ordered this 13th Day of May, 2005.

A handwritten signature in black ink, appearing to read "E. Richard Webber", written in a cursive style.

E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE